REMARKS

Claims 1, 3-5, 7, 8, 13 and 17-20 are pending in the application. It is gratefully acknowledged that the Examiner has allowed Claims 13 and 17-20. The Examiner has rejected Claims 1 and 5 under 35 U.S.C. §102(e) as being anticipated by Decker (U.S. Patent 6,195,338). The Examiner has rejected Claims 3, 4, 7 and 8 under 35 U.S.C. §103(a) as being unpatentable over Decker in view of 3GPP '321 (ETSI TS 125 321). The Examiner has rejected Claims 1, 3 and 4 under 35 U.S.C. §103(a) as being unpatentable over Dupont (U.S. Patent 5,729,542) in view of 3GPP '321. The Examiner has rejected Claim 5 under 35 U.S.C. §103(a) as being unpatentable over Dupont in view of 3GPP '211 (ETSI TS 125 211). The Examiner has rejected Claims 7 and 8 under 35 U.S.C. §103(a) as being unpatentable over Dupont in view of 3GPP '211, and further in view of 3GPP '321. Additionally, the Examiner states that the oath or declaration is missing.

Regarding the Examiner's allegation that the oath or declaration is missing, a courtesy copy of the Declaration as filed on July 11, 2001 is supplied herewith.

As a preliminary note, the Examiner relies on 3GPP '321 to reject several of the claims. The Examiner's reliance on version 3.3.0 of 3GPP '321 is not proper since the publication date of 3GPP '321 reference is May 17, 2000. Certified English language translations of the priority documents KPA 2000-18752 and KPA 2000-22027 are filed herewith to overcome this rejection. Based on at least the foregoing, withdrawal of the 3GPP '321 reference and any rejections based thereon are respectfully requested.

The Examiner rejected independent Claims 1 and 5 under §102(e) as being anticipated by Decker. Decker discloses a method for setting the persistence of a mobile station in a cellular mobile radio network. The Examiner states that a frame of Decker is the same as a Transport Format. This is a basic misunderstanding of the relevant technologies. First it is respectfully submitted that a Transport Format is not simply "a frame". A Transport Format is a form used by the physical layer. A "Transport Format" is not a "transport block". The Transport Format is

filled with information related to an amount of transmission data and a data rate, which is different from a frame simply indicating a physical unit like that of a conventional RACH. The present application discloses a novel feature for load control of a CPCH where there can be a variety of Transport Formats because the amount of data transmittable at any one time is great, which is vastly different from a conventional RACH. Decker does not teach or suggest the foregoing feature. Based on at least the foregoing, withdrawal of the rejection of Claims 1 and 5 under §102(e) is respectfully requested.

The Examiner has also rejected Claim 5 under §103(a) as being unpatentable over Dupont in view of 3GPP '211. The Examiner relies on 3GPP '211 for allegedly disclosing Transport Formats. After a careful review of 3GPP '211, not once is a Transport Format mentioned. The closest is a transport format combination indicator, which is not a Transport Format. Second, Dupont is mistakenly relied upon for disclosing that a persistence value is based on different forms, that is each Transport Format classification. The cited reference merely discloses collision detection using DSMA-CD in a CPCH from which, however, it cannot be easily derived that a persistence value can be determined according to a Transport Format. A conventional DSMA-CD only uses a single persistence value and does not teach determining a persistence value according to the properties of the data, as disclosed in the present application. Based on at least the foregoing, withdrawal of the rejection of Claim 5 under §103(a) is respectfully requested.

Independent Claims 1 and 5 are believed to be in condition for allowance. Without conceding the patentability per se of dependent Claims 3, 4, 7 and 8, these are likewise believed to be allowable by virtue of their dependence on their respective amended independent claims. Accordingly, reconsideration and withdrawal of the rejections of dependent Claims 3, 4, 7 and 8 is respectfully requested.

Accordingly, all of the claims pending in the Application, namely, Claims 1, 3-5, 7, 8, 13 and 17-20, are believed to be in condition for allowance. Should the Examiner believe that a telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,

Paul J. Farrell
Reg. No. 33,494
Attorney for Applicant

DILWORTH & BARRESE
333 Earle Ovington Blvd.
Uniondale, New York 11553
Tel: (516) 228-8484
Fax: (516) 228-8516

PJF/MJM/dr